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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES EVERETT HUNT, Individually and
on Behalf of All Others Similarly Situated,

Lead Case No. 4:19-cv-02935-HSG

CLASS ACTION

**STIPULATION AND [PROPOSED] ORDER
REGARDING SCHEDULE FOR
DEFENDANTS' RESPONSES TO SECOND
AMENDED COMPLAINT**

BLOOM ENERGY CORPORATION, *et al.*

Assigned to: Honorable Haywood S. Gilliam, Jr.

STIPULATION

Pursuant to Civil Local Rule 7-12, this stipulation and proposed order is submitted by:

- Lead Plaintiff James Everett Hunt (“Lead Plaintiff”);
- Defendants Bloom Energy Corporation, KR Sridhar, Randy Furr, L. John Doerr, Colin L. Powell, Scott Sandell, Peter Teti, Eddy Zervigon, Mary K. Bush, Kelly A. Ayotte (the “Bloom Energy Defendants”);
- J.P. Morgan Securities LLC, Morgan Stanley & Co. LLC, Credit Suisse Securities (USA) LLC, KeyBanc Capital Markets Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Cowen & Company, LLC, HSBC Securities (USA) Inc., Oppenheimer & Co. Inc., Raymond James & Associates, Inc., and Robert W. Baird & Co. Incorporated (the “Underwriter Defendants”); and
- PricewaterhouseCoopers LLP (“PwC,” and together with the Bloom Energy Defendants and Underwriter Defendants, “Defendants”).

WHEREAS:

1. On May 28, 2019, Elissa M. Roberts filed a federal securities class action in the above-captioned matter in the United States District Court, Northern District of California against the Bloom Energy Defendants.

2. On September 3, 2019, following the briefing of lead plaintiff motions, the Hon. William H. Orrick appointed James Everett Hunt as Lead Plaintiff and Levi & Korsinsky, LLP as Lead Counsel (ECF No. 39).

3. On November 4, 2019, Lead Plaintiff filed the Amended Complaint for Violations of the Federal Securities Laws (the “Amended Complaint”) (ECF No. 49). The Amended Complaint alleged violations of the federal securities laws under Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 against the Bloom Energy Defendants and named the Underwriter Defendants as defendants only under Section 11.

4. On April 14, 2020, the parties filed a stipulation and proposed order extending the deadline to file a second amended complaint and responses (ECF No. 111), which the Court

1 granted on April 15, 2020 (ECF No. 112).

2 5. On April 21, 2020, Lead Plaintiff filed a Second Amended Complaint for
3 Violations of the Federal Securities Laws (the “Second Amended Complaint”) (ECF No. 113)
4 and named PwC as a defendant only under Section 11, in addition to the previously asserted
5 claims against the Bloom Energy Defendants and the Underwriter Defendants.

6 6. Having just been named as a defendant in the action, PwC has requested
7 additional time to respond to the Second Amended Complaint. The Bloom Energy Defendants
8 and Underwriter Defendants have requested the same extension so that all Defendants will be on
9 the same schedule for responding to the Second Amended Complaint. Lead Plaintiff does not
10 oppose Defendants’ request.

11 **IT IS THEREFORE STIPULATED AND AGREED** by Lead Plaintiff and Defendants
12 that, subject to the Court’s approval:

- 13 1. The parties’ April 14, 2020 stipulation (Dkt No. 111) and the Court’s April 15, 2020
14 order granting that stipulation (Dkt No. 112) are vacated, and Defendants’ obligations
15 to respond to Lead Plaintiff’s Second Amended Complaint are instead governed by
16 the following provision:
- 17 2. Defendants will answer or move to dismiss the Second Amended Complaint by July
18 1, 2020;
- 19 3. If one or more Defendants move to dismiss the Second Amended Complaint, Lead
20 Plaintiff will oppose the motions by August 17, 2020, and moving Defendants will
21 submit replies in further support of the motions by September 16, 2020.

22 **IT IS SO STIPULATED.**

23 Date: May 15, 2020

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Attorneys for Lead Plaintiff

Date: May 15, 2020

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Attorneys for the Bloom Energy Defendants

Date: May 15, 2020

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and Robert W. Baird & Co. Incorporated*

1 Date: May 15, 2020

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15 Attorneys for PricewaterhouseCoopers LLP

1 **[PROPOSED] ORDER**

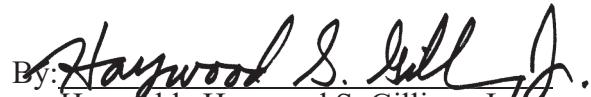
2 Pursuant to the parties' stipulation, and for good cause shown, IT IS SO ORDERED that:

3 1. The parties' April 14, 2020 stipulation (Dkt No. 111) and the Court's April 15, 2020
4 order granting that stipulation (Dkt No. 112) are vacated, and Defendants' obligations
5 to respond to Lead Plaintiff's Second Amended Complaint are instead governed by
6 the following provision:

7 2. Defendants will answer or move to dismiss the Second Amended Complaint by July
8 1, 2020;

9 3. If one or more Defendants move to dismiss the Second Amended Complaint, Lead
10 Plaintiff will oppose the motions by August 17, 2020, and moving Defendants will
11 submit replies in further support of the motions by September 16, 2020.

12
13
14 DATED: 5/18/2020

15 By: 
Honorable Haywood S. Gilliam, Jr.
United States District Judge